

SUMMIT-ON-HUDSON (PLUM POINT CONDOMINIUMS) SUBDIVISION
(03-35)

John Cappello, Esq. appeared before the board for this proposal.

MR. PETRO: Application proposes formal subdivision of the southerly portion of Section 6 of the Plum Point condo project into two lots. The application was previously reviewed at the 12 November, 2003 planning board meeting. The application is before the board for a public hearing at this meeting. Currently, the phase 4 property is split by the school district line and is therefore listed as two tax lots, the northerly tax lot contains residential units for the condo Phase 4 and the southerly lot is vacant. This application proposes to formally split the property into two individual approved lots other than the school line making them different lots. This is an official subdivision, okay. We had requested that the plan, resubmittal plan include bulk table as well as title block. This is needed for compliance of the lots. Information for the condo lots should be a total all phases as the planning board and zoning approval looks at the total site. Has that not been done?

MR. EDSALL: This is, I don't believe we had a resubmitted plan that I've seen.

MR. PETRO: This is the same plan we looked at in December, is what you're saying?

MR. EDSALL: I believe so, so still some clean-up work that needs to be done on the plan but under 3 I've got some comments, John can just on the record make sure.

MR. PETRO: Who's here to represent this?

MR. CAPPELLO: John Cappello, attorney with Jacobowitz and Gubits, we did submit plans.

MR. HALBERTHAL: Izzy Halberthal, I'm the developer.

MR. PETRO: Developer owner?

MR. HALBERTHAL: Yes.

MR. PETRO: Thank you. Is this the same plan we saw in December?

MR. EDSALL: No, there was the one subsequent that Myra had distributed was March.

MR. CAPPELLO: Right, March and that does have the zoning table on it.

MR. PETRO: Planning board previously assumed the position of lead agency under the SEQRA review process. We have fire approval on 4/13/2004 and that's it. All right, John, go ahead.

MR. CAPPELLO: This is just for reference, this section 6 of the Plum Point project as stated earlier there are 55 units built on what's proposed to be lot 2, so all the units are within the Town of Newburgh school district. There's a lot line that was the school district line separating the Newburgh and Cornwall school district. What we're looking to do is not build anymore units, but the condominium HOA documents submitted for Phase 5 and 6 incorporate this area only, this area was not incorporated, it almost sits as a separate lot, we just want to officially subdivide it off as a separate lot.

MR. PETRO: I asked you this question before, I know I've asked it a couple times. Why?

MR. CAPPELLO: Many different reasons. One is to allow him to make it easier for financing for the condo to correspond the sections to what's actually owned,

number 2 is it may be offered and it could be developed in the future, would have to go through site plan approval, go through the board obviously start from scratch.

MR. PETRO: Maybe offered for sale?

MR. CAPPELLO: Certainly could be.

MR. PETRO: Where is the frontage on the new lot?

MR. CAPPELLO: The frontage is on Lafayette Drive, improved portion comes to right about here, then the rest is a paper street that goes--

MR. PETRO: Again, I go back to the same question again we're creating a lot or would be creating a lot, back to my train of thought, you're creating a lot without road frontage, it's not on an approved road so if I want to get--where is the improved road frontage?

MR. CAPPELLO: Well, the key here for this lot because it's in an MR zoning district and we did agree--

MR. PETRO: What kind of zoning district?

MR. CAPPELLO: R-5 multi residence.

MR. PETRO: We don't have an MR.

MR. CAPPELLO: It's multiple family, so any development of this lot would require to come back to you for site plan approval to make sure the access is suitable. Part of that site plan approval you may tell the guy he's got to build a road or come in and do something different if it's developed or doesn't look like it's too practical but this kind of exits out there anyway.

MR. PETRO: I'm still very, very confused, I don't understand how we can create a lot.

MR. CAPPELLO: Well, you can create a lot, it's a road, it's a Town of Newburgh paper road.

MR. PETRO: I understand that very well. How much frontage do we need to create the lot, Mark? What's the frontage to have a lot in the R-5 zone? Is it 100 feet, 200 feet? What's required frontage?

MR. EDSALL: It's for a multi-family it's only 15 but we've walked this road in the past, we've explained at the workshop and I believe at a previous meeting that for this lot to be approved, meaning lot 1 they would have to at least improve the road in front of that portion on the north side of the lot so they would have to actually build the Town road to get frontage on the one access location.

MR. CAPPELLO: Which is about 119 feet.

MR. PETRO: You're already down to that point.

MR. CAPPELLO: This is where the road, the improved portion ends.

MR. PETRO: You need to go another hundred feet so we have 100 feet of Town road.

MR. CAPPELLO: That's what fronts upon that that we'll provide access, you know, onto there.

MR. PETRO: That's what you're planning to do?

MR. CAPPELLO: If that's a condition, we would.

MR. PETRO: It has to be a condition, how can you have a lot without an access plan?

MR. CAPPELLO: Well, the thing is you can't use it unless you put, okay, that's it.

MR. PETRO: You want to ask me something?

MR. LANDER: Yeah, if this is a paper road, it was never dedicated to the Town of New Windsor?

MR. CAPPELLO: No, it would be dedicated as shown as the filing of a subdivision map constitutes an offer of dedication.

MR. LANDER: Right but before that there was no offer of dedication so in reality, your client still owns that road?

MR. CAPPELLO: I don't know if he owns the bed of the road.

MR. LANDER: Somebody owns it, Town doesn't own it.

MR. CAPPELLO: You may, you may not think it but the filing of a subdivision map in and of itself constitutes an offer of dedication for the road so it would be.

MR. LANDER: So continue the road for 119 feet.

MR. PETRO: You're not planning to build anything on it at all at this time. I understand that you're not here for site plan at all?

MR. CAPPELLO: No.

MR. PETRO: Strictly to recreate the other lot, all you're doing is following the school line, the school tax line right over top of it, that crazy line?

MR. CAPPELLO: Right.

MR. PETRO: Did I or did I not ask you to look at straightening that line out and, whether it would be

beneficial or is there any reason to follow that line, I mean, it's a pretty crazy lot line.

MR. CAPPELLO: Well but because it's a condo, it's a little bit different, you're not going to be selling pieces off, this is all owned in common ownership, not like somebody is going to try and subdivide this. There's HOA documents and everything filed showing this as being owned by these folks, so to change this line would entail going to the school districts to have them change it because then if you--

MR. PETRO: It's not necessary, I'm just curious as to why do you need to go to the Attorney General's office to file?

MR. CAPPELLO: No, this has been filed.

MR. PETRO: It's already filed the way it is?

MR. CAPPELLO: Yes.

MR. PETRO: Mr. Chairman, just for the record, we did reference the plan that we all agreed was the latest one and they did provide as we asked an evaluation of all the areas of the Plum Point project, the site plan to verify that even with this lot 1 as they're showing it subtracted their density is still in compliance, Mike and I just checked that and they did provide what we asked.

MR. PETRO: So in reality, other than the 119 feet of road frontage that they need that's basically the only--

MR. LANDER: Let's not nail ourselves down.

MR. PETRO: Whatever is required.

MR. LANDER: Whatever it takes.

MR. PETRO: Is that a number that's definite, 119 feet?

MR. CAPPELLO: I just took it off this section here, the existing frontage according to the code we can build it because it looks like this person built it to the property line, if we built it to the property line and met the requirement I think we would.

MR. BABCOCK: If they had 50 feet and brought a road into this piece of property with a 50 foot would be enough.

MR. EDSALL: They just need to have a physically improved road in front of their access point.

MR. CAPPELLO: Realizing though also that 50 foot would entitle potentially the owner of the lot to claim they can build a home on it.

MR. PETRO: She's telling me the last times I went through the same thing, I'm repeating myself was 125 feet is what we asked for, that's what we want, 125 feet of improved road on the front of the property, let's use that number. It's very close to what you're talking about anyway. What are you going to do on the end of the road? You're going to just leave it? How are you going to treat the end of the 125 feet?

MR. HALBERTHAL: One single-family house. Maybe one single family home over here, this is a lot by itself.

MR. PETRO: But it's an active road at the time so somebody drives down this road, where do they turn around? What's there if I drive down that road right now, how do you turn around?

MR. CAPPELLO: This exists as unimproved.

MR. HALBERTHAL: There's something there, I don't know

what it looks like.

MR. EDSALL: What we'd look for, Jim, is that they would have to improve the road at least 30 feet passed wherever their driveway is, access to their whatever improvement they propose, so that if anyone comes down the road, wants to turn around, it would be like an L shape turnaround, pull in the drive, back in the turnaround area and pull away because there's no room for a cul-de-sac, Town doesn't own that property but we can make an L-shaped turnaround at the very end until such time that the road was looped through.

MR. PETRO: I might drive down there, I want to pick berries, what am I going to do, I want to turn around?

MR. EDSALL: You'd have the L shape of the driveway and the stub of Town road which allows the Town to plow beyond and then back up.

MR. PETRO: So it's 125 feet and you're going to construct this L-shaped turnaround?

MR. CAPPELLO: The question is if we went 30 feet from the property line, constructed a driveway and then went 30 feet because realizing that if this is ever developed for more than one home, then everything's up for grabs, again, you may want, I don't know what you would want at that point, we just wouldn't want to restrict it now cause we're just creating a lot, the actual access if it was ever developed for more than one house at that point would be looked at by site plan approval and there may be much stricter additional requirements that you'd want.

MR. PETRO: I'm going in a circle, so let's do it one more time, try it one more time. Mark, you need to sit with these gentlemen, come up with a required road frontage for a lot in R-5, that's what they need to have, plus a turnaround, if it's L shape that you feel

that's fine.

MR. EDSALL: Do you want to stick to the 125 cause if you require 125 there's no problem.

MR. PETRO: Yeah, let's just stick with that within reason, in other words, if you need to shift something a few feet but it's 125 feet with the turnaround, maybe they can put the driveway inside of that, not have to go passed it and then use the back end of it.

MR. EDSALL: Exactly, that's exactly how we're headed at this point is that with 125, it gives them this entire strip of frontage to access wherever they desire, other than at the very end.

MR. PETRO: Find out about easements on driveways of existing houses easement from where do you have any easements there, all right, just passed that. What we're going to do is I want to, any board members have anything right now? Let's open it up to the public. I want to get some comment from them then we'll come back. Okay, on the 21st day of April, 2004, 18 addressed envelopes were mailed with the notice of the public hearing that we're having tonight. Someone here to comment for or against or just want to make any type of comment on this application, be recognized by the Chair, come forward, state your name and address and your concern. Before I recognize anybody, I want to explain one thing, just to try to diffuse any confusion, this is not a site plan, this is not a plan to build anymore condos, this is not a plan for expansion of anything. All we're simply doing is following that line that already exists, which is a school tax line and creating this lot separately from the lot of the fourth part of that subdivision. So we're not creating any buildings. There's going to be not one more building, as you just heard with me with the road, the road that has to be made so you can turn around in the future if someone were to come in, want

to develop that property, it's an R-5 zone, same as where you live now, there would be a complete site plan process to go through, complete, much more complicated than what you see here tonight. It would take a long period of time, there'd be another public hearing. So it's a long way to go. The reason I bring that up is because I'm sure somebody is saying we don't want more houses, however that may be down the road, I'm not saying it may never happen, but it's not tonight. All we're doing tonight is taking the one piece of property and making it two right along the same line line that already exists on that map. Okay, now, with that, I want to see a show of hands. Anybody who'd like to speak?

MR. LATHORES: My name is Manuel Lathores, I believe I have an easement on the road there at the end of the road and Lafayette Drive, that's my driveway so to speak.

MR. PETRO: Can you show us where you live on that Map?

MR. LATHORES: It's hard to see if you didn't put my house anywhere, I don't see my name, if this, if that's Lafayette Drive over here, there's a dropoff quite a few feet, house is here, my house is here, my driveway is unimproved but I improved it so I have--

MR. PETRO: You're not in the condos, your across is the street behind over here and your concern is that Lafayette Drive if it's ever improved you have an easement to use it?

MR. LATHORES: Well, I have an easement now.

MR. PETRO: And you want to use it?

MR. LATHORES: Yeah, I park there overnight.

MR. PETRO: It would be a Town road so whenever this would be built out, it can't be a private road, it's going to be a Town road it's already a Town road and you would certainly have access to the Town road. So I don't really see it, frankly, as a problem, it's a Town road, you're going to be there, your driveway already enters onto it.

MR. LATHORES: Right.

MR. BABCOCK: His driveway travels along the area that we're telling them that they have to improve so right now, his driveway, he comes down Lafayette Drive, goes off the end if you will, Town blacktop onto a dirt gravel road.

MR. PETRO: I think it's very simple, if there's a road there now, if there's driveways there now and you're improving it you have to give him access with the curb.

MR. BABCOCK: He has access because it's a Town road.

MR. PETRO: But it should be improved if they're going to improve the road with curbing.

MR. BABCOCK: They're going to improve his driveway if you will.

MR. PETRO: Correct, they have to include anybody that has access up to that point. If you're on the other side down towards the tennis court and they're not improving that then it has nothing to do with it.

MR. LATHORES: They're going to take a piece of my property also because it's a very narrow strip and there's a big dropoff, they're going to have to put a lot of dirt to make it wide enough.

MR. PETRO: It's either the Town's property or it's your property, they cannot go on your property if it's

the Town property.

MR. LATHORES: Can't take 78 feet?

MR. PETRO: No, they cannot touch your property now, if there's an easement to go on your property, that's what they do, but they can't go on your property, start filling it in, taking care of it.

MR. EDSALL: Jim, it may be beneficial since this is an issue that we really have to have nailed down before we can have them improve that section their surveyor should show just not the metes and bounds of the 50 foot strip on their side, they should show the limits of Town road and verify that that's in Town property.

MR. PETRO: I think at the last meeting we asked you to show both sides of the road, it's one of my comments and I see the same comment from Mr. Kroll who is the highway superintendent, if you had shown both sides, the houses and those driveways, this could be more easily resolved.

MR. EDSALL: I want to make sure that it was an offer of dedication, the Town may not literally own it at this point or if they do own it, I want to know that for a fact so we can tell you yes or no.

MR. PETRO: Find out.

MR. EDSALL: Their surveyor can go back and research it to see if this is listed as a Town owned property, same as McNary when we went through with McNary Drive.

MR. SCHLESINGER: How does he have an improved lot without a road?

MR. EDSALL: How does he have, this gentleman?

MR. LATHORES: I have an easement.

MR. EDSALL: A lot of strange things happened in the past.

MR. LATHORES: From Lafayette Drive.

MR. BABCOCK: He has no easement.

MR. EDSALL: If it's Town property, he's driving over Town property.

MR. PETRO: Do you have access any other way to 9W or any other road already?

MR. LATHORES: No, the only way to get in is through Lafayette and down my driveway, but I have to insure that road also, that's on my insurance, I insure that road, I pay taxes on that road.

MR. PETRO: So we have a question, Mark, we have a question of ownership.

MR. EDSALL: They have to verify that for us, we'll make sure you're not cut off.

MR. CAPPELLO: We won't, we'll look tonight.

MR. PETRO: You can't really lose if it's a Town road, you have to have access and you're going to have access through your driveway going on a Town road. If it's not a Town road and in fact somebody else owns it or you own it then they can't improve it anyway, if they can't improve the road and give us the 125 feet of frontage or legal frontage, we have the ability to, then they can't do it anyway. So I can't see how you can lose, in other words, either going to be a Town road, you have your access or is it the way it is until something else changes, they can't go build a road on somebody else's property. I just assumed and I have here 25 times that Lafayette road is a Town road. Now

we don't know. Is that the thing, we don't know now?

MR. EDSALL: That's everyone's belief but I want to see it on the plan and verified.

MR. LATHORES: See what I'm just trying to understand is that the road where it ends is very narrow, there's a lot of dropoff where my driveway is, just goes straight down, are they going to come in and take a piece of me and my neighbor's yard just so they've got a nice solid base?

MR. PETRO: They cannot take a piece of your yard, if by your yard you've been using it and it's Town property through an easement or just by deed of the road.

MR. LATHORES: No, I have it like with the flags and stuff.

MR. PETRO: They can't go on your property now, sometimes to build things, there's a grading easement that maybe they may come to you and say look, we're going to improve this road here, it's going to be 30 feet wide, it's a Town road, we're going to give you curbs into your house, do you mind if we grade 15 feet so we can grade and get that accomplished? That might be between you and them, sometimes good things happen if two people are thinking good things. If not, then I don't know what to tell you, then they can't do it and you may get more of a crap job, that's the best way I can tell you. But first we need to nail down is who the hell owns the road? Why are we here if we don't know who owns the road?

MR. LATHORES: From what my deed says or whatever this road is supposed to go all the way around like a circle almost and that's what they said.

MR. PETRO: It does go through but I'm not getting into

any of that for one simple reason, this is not the place for it because all they need is the 100 feet that I'm asking, for 125 feet.

MR. LATHORES: This way?

MR. PETRO: Anywhere they want to give it to us, if we want access.

MR. LATHORES: To this lot?

MR. SCHLESINGER: The whole area.

MR. PETRO: But where you have your pen, that's the lot we're talking about.

MR. LATHORES: And this is my house.

MR. PETRO: Yes, so I wouldn't be too unhappy yet cause you may get a real nice job out of that and you may be very happy.

MR. LATHORES: Well, they're going to build on top of that lot.

MR. PETRO: Not at the time right now, we're only looking at taking it and creating the lot which in reality already exists by virtue of the school line. So we're going to go over top then at sometime in the future, you have to understand that the property is zoned R-5 which by law is 6 units per acre, approximately, if somebody comes in and wants to develop it in that manner, our board is not to say yes or no but how. So we have no control over that. But it will be a long tedious process. At this particular time, there's a water moratorium in the Town, they couldn't get the water anyway, so I can tell you for sure that it's going to be measured in years, not within weeks that somebody would be down there. At this time, we're only looking at the subdivision and

that's it.

MR. LATHORES: No clearing of trees, nothing like that?

MR. PETRO: There, well, at this particular, they cannot clear the trees because it's an active application before the planning board. Once the planning board process is over, they can certainly cut the trees off their property if there's no active application but that's true anywhere in the Town.

MR. LATHORES: Just want to present to you and then just for the environmental.

MR. PETRO: I'm reading this, why are they subdividing the two acre parcel? You probably heard me ask that. I have asked it ten times so far but again, if somebody has a large parcel of property and they want to make two lots and they have proper access, that's their right to do that and certainly not to hurt anything. How big will the two parcels be? It's obvious, you can look at the plan. Are there plans for each parcel? We already know the plans for the front parcel, half these people probably live there which is number 4, correct?

MR. CAPPELLO: It's section 6.

MR. PETRO: Well, whatever it is, that's one half of it, the other half you and I just discussed, it's R-5 and some day in the future somebody can come in. SEQRA process they'd have to go through the entire process on the new parcel so that's, that's a long--has the environmental assessment form been filled out? Again, this is a lot line.

MR. EDSALL: Minor subdivision, I believe they've got a short form in.

MR. PETRO: We did circulate for lead agency and a positive dec or a negative has not been done because we

usually do that after the planning board has a public hearing to get input, you may say hey, there's a spring there and we have to go down and take a look.

MR. EDSALL: Jim, at this point because it's an unlisted action and because there are no other involved agencies, we have not circulated, there's really no one else involved.

MR. PETRO: We probably will do a negative dec only because there's nothing there, there's not going to be any reason, it's certainly not a wetlands that I would be aware of up on that hill. Do you have anything else?

MR. LATHORES: No, thank you very much, Mr. Petro.

MR. PETRO: We'll keep an eye on it.

MS. LIVENGGOOD: Dawn Livengood, 47 Lafayette Drive. My mother's here, she technically owns the house. First of all, we don't even understand why our names, we've got the papers because you want to go in front of our homes, our names aren't here, we live directly right here and where you're saying you want to go. If there isn't an easement, we're on septics and the way they built the homes, our septics are in our front yards, so if they went in, we have no leach field. Where is the septic tank supposed to go?

MR. PETRO: Well, keep in mind your septic tanks and your leach fields and lot of times I give people answers that they don't want to hear.

MS. LIVENGGOOD: Ours are in the front yard, when they didn't finish the road completely, we were probably like the last house built, the way they ran the water lines everything is opposite of everyone else's on the street and our septics are in our front yards.

MR. PETRO: You feel that they're in on Lafayette Drive you're saying?

MS. LIVENGGOOD: Well, where like where Manny's driveway, well, it's part of the Town where they made him be able to get to his house if they came in and took property if you're saying like there's an easement because I don't know how far in you can go but if they do that you're right on top of our leach fields.

MR. PETRO: Keep in mind they can't take property. In other words, the property is, say they're going to be owned by the Town or it's not so your leach field would be on Town property and you would have a serious problem or it's not going to be there and you don't have a problem.

MS. LIVENGGOOD: That's where they built them when the homes were bought, that's not the people's fault, that's how the Town allowed it to be built in the first place.

MR. BABCOCK: Her septic field is not underneath that guy's driveway, that's--

MS. LIVENGGOOD: But if they take--

MR. BABCOCK: They're not taking anything from you or your neighbors.

MR. KARNAVEZOS: If they're going to make a road, they're going to make it on their piece of the property. What the Chairman said they might have to be in a hair on your, a little bit on your property for grading purposes but it's not going to affect your septic or your leach fields. If it's going to affect your septic or leach fields, they're not going to be able to do it.

MS. LIVENGGOOD: Well, I also have letters, they're from

these people right here which also this person doesn't even live here anymore so I don't know why this name is on here and why ours aren't here and we received letters.

MR. PETRO: They should be, we had requested that they be.

MS. LIVENGOD: Because we got other people on the street came with us that didn't receive letters, we did, and we're not listed and this isn't who lives in this house right now. And I have letters for these people on all kinds of issues with this. Nonetheless, number one, the noise that's going on, these people have been building over there, I believe Myra told me since 1988, but for the past last few years, you cannot even sit out in your yard at all six days a week without noise, it's horrible, ungodly horrible and they're just right now they're right here but you have been starting to drive the trucks down here and dumping dirt down here and it's all day long, it's horrible. And there's wetlands down here and the railroad track is down here, I don't understand why anybody, our windows shake right here and there are animals and important things that live in here and I don't think that this is right and I have letters from these three people here that who could not attend if you'd like to see them.

MR. PETRO: Well, again, this subdivision which is just a two lot, see that crazy line I kept pointing to, all we're doing is creating the two lots, the big one and that one that you just pointed to at tonight's meeting and we're not even going to get that far because as far as I'm concerned, the plan is not complete so I'm not taking any action tonight.

MS. LIVENGOD: We're concerned already that you're saying he can go in and start cutting trees down and we have environmental people that want to come down here

and look and I don't think they should be allowed to do anything until people can go down there.

MR. CAPPELLO: Can I clarify one thing? We're not cutting down, it got said that if we didn't apply anybody in the Town of New Windsor could go cut down trees on their property but we haven't and I think that was the response, there's no application before, no consideration, nothing to cut or do anything on this piece of land.

MS. LIVENGGOOD: People are back here dumping things.

MR. CAPPELLO: We'll look into it but the plan we're here before the board if there's a problem, I'll take your name, we'll listen to you.

MS. LIVENGGOOD: We have a concern with over here, you have a water pit, it's some kind of runoff water, there's green vegetation, it's not fenced in, I mean, that's a perfect breeding ground right there.

MR. PETRO: Young lady, we're getting away from the point.

MR. SCHLESINGER: The gentleman that was here that spoke before, you, in order for you to pull in your driveway you go passed his house?

MS. LIVENGGOOD: No, we're a duplex house, when you come down the road here, our house is here, Manny's is here, we're connected, we have a driveway then there's a stop sign, he drives, he has to go over the swale in the road and they graded it out for him to park his car because they're talking about the paper trail of the road where it never went on the circle, actually on the paper trail there's a thing from his house because the man who used to live there years ago to be able to drive up between these two houses there.

MR. SCHLESINGER: My question is if you live in a duplex and Manny's access to his part of that duplex is a little bit around the corner there, is that right?

MS. LIVENGOOD: It goes down in front of our house.

MR. SCHLESINGER: Is there anybody else after that?

MS. LIVENGOOD: There's a house down here on the other end of the street.

MR. BABCOCK: They come in the other side.

MR. SCHLESINGER: There's nobody else after your duplex, there's nobody there?

MS. LIVENGOOD: No, the last house over here, the road is not paved either, she's a dirt road, but I don't know if you'd like to look at these letters from the three people that could not attend, they'd like you to look at it.

MR. PETRO: They'll be in the permanent record, give them to Myra.

MR. EDSALL: Before I forget, we'll go on record with the applicant asking for them when they get the additional information regarding metes and bounds of the Town roadway or in the case of one portion it's a Town road, the other case it's a Town property, it's our understanding could you please extend the topo out over across there so we can verify whether or not it's possible to build the road?

MR. CAPPELLO: And also I was going to say if once we get the information if you want to go and--

MR. EDSALL: I'm going to do--

MR. CAPPELLO: On site to actually eyeball it with the

topo and determine where the most appropriate way to go is.

MR. ARGENIO: You're going to draw the lot lines on the plan that are across the street as well, put the names on there? I think that will take about, maybe could eliminate 20 minutes of this conversation.

MR. PETRO: I'm this close to closing the public hearing and closing up the plans. I'm not going to do it because I don't want to be ill tempered but we asked you last time and I know I did to have everything on this plan, this is a crap plan to have before a public hearing. They're asking me and I don't even know how to answer them because I can't see it. I don't know what's down there. I should know where his driveway is here, we're going to put 125 foot road in front of it. I go both ways, I go with your headaches and against your headaches, so I try to be very fair for everybody as far as the trees are concerned, man owns the property, if he's not before this board with an active application if he wants to make it look like your head, that's his business.

MR. CAPPELLO: Is it getting redder?

MR. PETRO: That's your business for your own land, not just for us. But once there's an application, then what you're saying this lady here then it does become a concern, then we do take a look but not prior. You can't tell somebody they can't cut a tree down on their property. This isn't--

MR. ARGENIO: At least we can't.

MR. PETRO: This isn't Europe somewhere. Anyway, listen, the public hearing is still open, so in case, I know this lady has been waiting, but I'm very unhappy with this plan tonight for the public hearing. Go ahead on a different subject, something that we have

not talked about.

MS. MORIELLO: Jessica Moriello. My house isn't on that map, you keep talking about this extended road of 125 feet for dump trucks, but if you're not building, what are the dump trucks doing?

MR. PETRO: No, it's a Town Road for anybody, it's going to be an extension of Lafayette Drive to Town specs of 125 feet. So this new lot, this lot that's remaining has access to a Town road, you can't create a lot obviously without access to the Town road, to a road, therefore, that's why we're building it, it's for anybody, you can drive down there with the Volkswagon.

MS. MORIELLO: To go out 125 feet and have it drop off after that?

MR. PETRO: Well, it would end at that point that would be, they would fulfill their requirement that we're asking them to do, as long as they give us a turnaround like we explained earlier, then later if nobody ever comes in, I don't know if he sells this lot or keeps this lot, it could be developed in R-5 fashion, in other words, six units per acre.

MS. MORIELLO: If it's developed later, would those trucks be able to use our street to gain access to that lot?

MR. PETRO: Absolutely, it's a Town road, it's not your street, it's a Town road.

MS. MORIELLO: In other words, I live on a Town road.

MR. HALBERTHAL: What are you talking about trucks?

MS. MORIELLO: Every single day I hear the trucks, they're filling in a road that they can get in there and work on the property.

MR. LANDER: They're building a construction road?

MS. MORIELLO: They're building a construction road.

MR. LANDER: So they're not using Lafayette Drive?

MS. MORIELLO: Right here you're building a construction road.

MS. LIVENGOD: On this side of the road over here, I have a letter from her, would be the dump trucks are filling in a road so they can get into where it's not filled in.

MR. HALBERTHAL: Into this property?

MR. BABCOCK: We need to look at it.

MR. PETRO: The building department will be down there tomorrow, we'll find out where they are.

MR. SCHLESINGER: There's a gray area here, a misunderstanding, it doesn't matter what it is, Mark will be down or Mike will be down there and we'll evaluate it.

MR. BABCOCK: This lady here just showed me it's on their property where the condo, Plum Point condos is, she thinks that maybe accidentally they came, truck came down Lafayette one time.

MS. MORIELLO: No, it's not on Lafayette.

MR. BABCOCK: She was pointing to the wrong place.

MR. EDSALL: It appears--

MR. PETRO: It's confusing to me and I'm here 14 years, I don't know what the hell I'm looking at either.

MR. BABCOCK: I'll go there tomorrow.

MS. MORIELLO: They're filling in a construction road without saying they're filling in a construction road.

MR. CAPPELLO: I know it's confusing and I don't want it to be, I want to try and answer questions. I wasn't here, I apologize, I didn't understand that this was that big of an issue, but it is. So if the board keeps the public hearing open, we'll set a date where we can get this information in, we'll contact these folks.

MR. PETRO: I don't want to keep it open, there's no reason for that. I know what their concerns are, I know exactly where to go. You're going to build 125 feet on your property and whoever's opposite or on that road is going to have access by curb cut onto the Town road, which is common sense. I cannot go on their property, you can't touch their property, if you want to get together with that man and he wants to give you a little easement, give him some nice curbs, God bless you, but we want 125 feet Lafayette Road for this lot and we want to know what's on the other side of the road and what you're doing. It's very simple. I don't see any problem with the subdivision but we need to get that, if that road was already existing, we probably would have done a long time ago. Any other with a different subject other than something--

MS. CONKLIN: Catherine Conklin, I live on 9 Lafayette Drive. Right now, it doesn't affect me but my concern is they enter, they can go in and out of Lafayette Drive, we have a problem now, we have a problem with Toyota, okay, we have children who cannot even play out on the road. They test drive the car and race like a maniac. I have reported it a number of times to the Town. Number two, we have the Irish bar on the road, they come down there, they're half drunk, they hit one of my neighbor's trucks, they come out of there, you

should of seen the place St. Patrick's Day, I had to call the cops three times. My neighbors had to call the cops, they were parked all over the place, didn't care where they parked, they parked.

MR. PETRO: Doesn't Mr. Luellen live there?

MS. CONKLIN: Mrs. Luellen is right there.

MR. PETRO: I went to school with your son. Nobody cares about that but me and her.

MS. CONKLIN: I don't believe as many cars was equipped to go in that building, there has to be some kind, how many people can go in a building at one time? Now you should of seen the cars were up and down the road, 9W, they were parked on both sides of Lafayette Drive coming down.

MR. PETRO: From the bar?

MS. CONKLIN: Number two, my neighbor got his truck hit from one of them. Number three, I was told we were reassured that there'd be no tractor trailers coming down the road. Every night that tractor trailer wakes me up, you call the Town, they say oh, no, no trucks coming down there. We want to know how much traffic is going to be on our road? We got too much as it is, children can't play.

MR. PETRO: Some of what you're saying frankly are police matters, I would call, the truck doesn't belong there, call again.

MS. CONKLIN: We were reassured that Toyota would not have an entrance to Lafayette Drive, the Town said everybody received a letter, not one person received a letter.

MR. PETRO: Is their an entrance?

MS. CONKLIN: Two of them.

MR. PETRO: Can we pull the site plan and take a look at that?

MR. BABCOCK: Sure.

MS. CONKLIN: There was never, they reassured us they would not enter our road.

MR. PETRO: Thank you for being patient, I know we're off the lot line.

MS. CONKLIN: I'm concerned about how much traffic.

MR. PETRO: We're going with you, we'll take a look at it. What you really can do, you can come here to Myra's office right here in Town Hall and pull the site plan out for Toyota.

MR. BABCOCK: I'll do that, Jim.

MR. PETRO: Maybe some of the people if it's on the plan that's what it is, if it's not there, we can do something about it.

MS. CONKLIN: What I'm saying is the Town said that everybody on the street received a letter to come to that meeting, not one person on that whole street received a letter to deny that entrance, not one. Now somebody--

MR. PETRO: It's adjoining property owners only so it would not be the whole street, should be adjoining property owners.

MS. CONKLIN: If they're using, having an access to the road, that means there's going to be more traffic.

MR. PETRO: Yes, your problem is not unique to you, this is an ongoing problem that's through, it's all over the place and again, I'm very unpopular when I tell that stuff because I can't get out of my own road. When I first moved there, there was six houses, now there's 16. Once I shaved before I even got out of there, it's horrible.

MS. CONKLIN: There's only one entrance in and out that point we're concerned about.

MR. PETRO: But if the Town road exists and you own property on a Town road, you or Mrs. Luellen or anybody else in this room has a right to develop their property to the extent of the law. And that's what we can do. We're an administrative board, we're not a judiciary board which simply means we apply the law the way it's written, we do not make the laws. If someone comes in and they have a parcel of property down there that's permitted to put up ten condos and they meet every aspect of the law, they have the same right to that road as you did and, as she did and I do. We cannot say arbitrarily no, we can listen to comments about water drainage, lighting, there's a lot of things we can do but you cannot tell somebody no.

MS. CONKLIN: I understand that. What I'm saying is that this has happened to us down on Lafayette Drive so we're not reassured that this isn't going to happen again.

MR. PETRO: As I said early on, I'm repeating my own self, this is only for the lot line change, this is not a site plan of any kind so if there were ever to be more development on that property, you've got a long road to hoe, no pun intended, long process.

MS. CONKLIN: What if they say they sent letters out?

MR. PETRO: There's letters, they do go out, they have

to go out, I have proof here that they go out.

MS. CONKLIN: I'm telling you not one of us received a letter about Toyota.

MR. BABCOCK: Jim, the only time that you get letters is if there's a public hearing. Toyota there was no public hearing, nobody would be notified.

MR. PETRO: Sometimes public hearing would be waived.

MS. CONKLIN: When they put the building up, we were assured they would not have the entrance.

MR. PETRO: I know you're upset, nobody wants another 50 condos. I'm the one that the board is, the one that got the building lots from a half acre up to two acres, just to try to get rid of some density too many houses, but you can only do what you can do and again, I don't know if you have children, I have children, when they grow up, I want my two boys to have a house, that's all I can tell you, the same as you have and I have and that man has and everybody else. So it's a difficult problem. We do the best that we can when the time comes and somebody develops that property which may never be, I'm not saying somebody is going to develop it, I have a good idea this man is not going to develop that property and it's going to sit in limbo for who knows how long and you're going to get a nice new road.

MS. CONKLIN: I'm just concerned about things being done underhanded like other things have been done.

MR. PETRO: Nothing's done underhanded, it's either a mistake or just miscommunication cause there's no way to be underhanded in this Town. You cannot do it. It's the, law you have an attorney sitting there.

MS. CONKLIN: Well, you explain to me why no one got a letter about Toyota?

MR. BABCOCK: If there was no public hearing, if you come to Myra's office, you call me, make an appointment, I'll pull out the file, I'll tell you exactly what happened, I'll will show you the thing, I'll go there tomorrow and look at the plan, if there's not supposed to be an entrance, the entrance will go away.

MS. CONKLIN: At the Town when I talked to Mr. Meyers, he told me personally on the phone and he told Mrs. Byers which she passed away that he don't need our vote, he can do what he wants, but he won't say that when I come up here.

MR. PETRO: The other thing that you mentioned if they don't belong on the road, if you see them, call right away and catch them there, it's hard, if they're already gone. The Irish bar business with the parking down there, I don't know what to tell you, if I was there, I'd be pissed too but I don't know what to tell you.

MS. CONKLIN: I had to tell one of them they were going to block my whole driveway and he said go call the cops, I can park anywhere I want.

MR. PETRO: Okay, I'm not belittling your problem, we spent 15 minutes on it, we're here for a lot line minor subdivision, there are some issues that we do have with these people, the plan needs to be corrected, anybody else on a different subject?

MR. ARIF: My name is Arif, we're right next to this property which is developed, construction is going on, we lost a lot of business because of early time working, they start very early, so lots, I mean, it has been going on for the last year and we're just next to it, what they're doing is they're picking up dirt, bringing it, throwing it in there then next they come,

they pick up the same dirt and they throw somewhere next to, it's hiding all the windows which our rooms have which used to be a view of the river, anyway that's their property, whatever they want to build, we're not concerned but we're concerned about the business we're losing because people come, they don't want to be woken up at 6 o'clock.

MR. PETRO: What do you want me to do about that?

MR. ARIF: We're only concerned that they should if, they're doing the work, they should be doing it some--

MR. PETRO: There's a time ordinance in the Town, Mike, what's the time to start?

MR. ARGENIO: 7 a.m.

MR. PETRO: If they're there before 7 a.m. call the police and they'll be given a summons. Don't go there before 7 a.m.

MR. HALBERTHAL: We're never there.

MR. ARIF: Now the piling of the dirt right in front of the rooms, it's just like their property line is right where you're sitting and we're right here.

MR. PETRO: Can't you take a look at that and help his problem?

MR. ARIF: Big, big like a mountain of dirt.

MR. HALBERTHAL: We have to put dirt somewhere.

MR. ARIF: The thing is what they're doing is they're making piles right in front.

MR. EDSALL: Mike and I just discussed, we're going to make sure they're not changing the grade or creating

obstructing berms that are in violation of their site plan so we'll check to make sure.

MR. ARGENIO: That takes care of that.

MR. PETRO: But you're not being very reasonable, you know, he's here, he has a problem, work with him a little bit. The way you're acting, he's going to come, take a look at it because he's going to look at it, he will look and see what the grading problem is, you say you don't know where else to put it, you have a lot of property, take a look because the agenda could be full for a year. You understand what I'm saying?

MR. ARIF: They have cut the trees now they're making small pieces, they're lying right next to my property line on the corner and we have a snake problem there, we have called the exterminator, all the snakes are rushing to our property.

MR. PETRO: We'll take a look at that, the public hearing is getting a little, we're talking about snakes now, it's not a planning board issue. I want to, anybody else on something different? Not that snakes are not important, he's going to come take a look at the dirt, we're going to look at it. What else are you looking at tomorrow, the road itself?

MR. LANDER: No work on Sundays.

MR. PETRO: You see them down there, show him, he's going to take a look at the dirt piles. Lot of times common sense will make a lot of problems go away.

MR. EBERT: Jerry Ebert from The Sentinel, just a quick question, could you tell us the acreage that's involved in each proposed parcel?

MR. CAPPELLO: Well, this is a 15 acre parcel, two lots existing with the school, this is 8 acres which

contains the 5th and 6th but the whole Plum Point project is 42 acres is the entire Plum Point but this lot we're creating is 7 acres.

MR. EBERT: Proposing to split off 7 acres?

MR. CAPPELLO: From the Section 5 and 6 which existed as 15.

MR. EBERT: So 7 from 15?

MR. CAPPELLO: Right.

MR. PETRO: I want to entertain a motion to close the public hearing.

MR. ARGENIO: I'll make the motion.

MR. KARNAVEZOS: Second it.

MR. PETRO: Motions has been made and seconded that the New Windsor Planning Board close the public hearing for the Summit on the Hudson minor subdivision. Any further discussion from the board members? If not, roll call.

ROLL CALL

MR. LANDER	AYE
MR. SCHLESINGER	AYE
MR. KARNAVEZOS	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE

MR. PETRO: I will open it back up to the board for further comment. The first fellow that talked back here, you want to know about your driveway, I'll go down there myself whenever that happens, I want to see what's going on down there, so whatever his name is and stuff, Mike, if you go down there, you pick me up, I'm

going to go with you.

MR. BABCOCK: We'll go tomorrow, Jim, if you're available.

MR. PETRO: The cars from Irish Eyes, I'm going to talk to Biasotti, Biasotti is the Chief of Police and we're going to see about some signage down there. All you need is no parking signs. Do you have any along that strip? No, probably no. Have you requested any through the police? No? I'll talk to Biasotti, we'll take a look at it. I don't know if that can happen.

MS. CONKLIN: Even if they park on one side, let us have the other side when we have company.

MR. PETRO: Seems like you don't have anything so we're going down there.

MR. BABCOCK: We're going to look at Toyota.

MR. PETRO: I kind of believe that the Toyota did have access onto Lafayette, they had one.

MR. BABCOCK: I'll pull the plan.

MR. PETRO: The snakes, you're up the creek without a paddle, I don't know what the hell to tell you, the dirt, we'll take a look at, I don't know what to do about the snakes.

MR. LANDER: Noise, the trucks, there's a noise ordinance in New Windsor, come to Town Hall, you can get a copy of the noise ordinance.

MR. PETRO: Sir, be reasonable when you're working, it goes so much farther than saying I can do it because I want to.

MR. HALBERTHAL: I want to be good neighbors.

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MR. PETRO: Do something with the plan, if it comes back like that next time, I'm going to close it up.

MR. CAPPELLO: I got the message.

MR. PETRO: Thank you for coming in.